

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2007-76
March 27, 2007

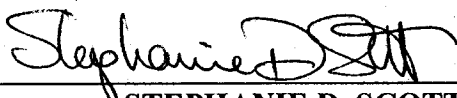
SUBJECT: Realignment: *reSTORE* DC Program from Deputy Mayor for Planning and Economic Development to Department of Small and Local Business Development

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422 (2) and (11) of the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22 (2) and (11) (2006 Repl.), it is hereby **ORDERED** that:

1. The program known as *reSTORE* DC under the authority of the Deputy Mayor for Planning and Economic Development shall be transferred to the Department of Small and Local Business Development.
2. All management, oversight, and authority for this program including duties, functions, powers, records, positions, personnel and assets of this program are hereby transferred to the Director of the Department of Small and Local Business Development.
3. This Order supersedes any prior Mayor's Order to the extent of any inconsistency therein.
4. **EFFECTIVE DATE:** This Order shall become effective immediately.


ADRIAN M. FENTY
MAYOR

ATTEST: 
STEPHANIE D. SCOTT
SECRETARY OF THE DISTRICT OF COLUMBIA

10500843

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL

Legal Counsel Division

MEMORANDUM

TO: Nicole J. Becton
Director of Policy and Planning
D.C. Department of Small and Local Business Development

FROM: Wayne C. Witkowski *WAW*
Deputy Attorney General
Legal Counsel Division

DATE: March 19, 2007

SUBJECT: Legal Sufficiency Review of Draft Mayor's Order Transferring reSTORE DC to the Department of Small and Local Business Development
(AM-07-150) (196847) (Doc 169955)

This responds to your March 7, 2007 e-mail by which you submitted the above-referenced Mayor's Order (Order) to this Office for a legal sufficiency review.

As you know, Pollie H. Goff, Senior Assistant Attorney General, Legal Counsel Division, has communicated with you by e-mail and telephone requesting information from you regarding: 1) reSTORE DC's function; 2) how reSTORE DC became a part of the Office of the Deputy Mayor for Planning and Economic Development (DMPED); and 3) the source of reSTORE DC's funding. As Ms. Goff informed you, the answers to these questions are necessary to enable this Office to make a determination regarding whether a Mayor's Order is the proper vehicle for accomplishing the proposed transfer of reSTORE from the DMPED to the Department of Small and Local Business Development (Department) as you seek to do. You informed Ms. Goff that you would continue to seek the answers to these questions.

This Office was finally able to answer its own questions by reviewing the FY 2007 Proposed Budget and Financial Plan, Volume 2 (Budget Book), which contains information regarding reSTORE DC at pages B-5 through B-8. There, DMPED is described as having three primary divisions as follows: 1) Agency Management; 2) Deputy Mayor for Planning and Economic Development; and 3) Agency Financial Operations.

The reSTORE DC Program falls under the second division – the Deputy Mayor for Planning and Economic Development (PED). According to the Budget Book (pg. B-7) the PED Program:

Provides specialized, strategic, economic development assistance. This includes financing, program and policy development, and inter-agency coordination services to businesses, developers, and community stakeholders so that they can pursue ventures that revitalize

neighborhoods, expand and diversify the local economy, and provide economic opportunity for District residents.

The reSTORE DC Program is listed as one of the PED Program's activities as follows:

Provides training sessions, technical assistance consultations, research papers, publications, conferences, and limited financial support to community-based organizations so that they can help retain, expand, and attract retail stores and small businesses that employ District residents in neighborhood business districts.

The Budget Book (pg. B-5) states that for fiscal year 2007 reSTORE DC had a proposed staff of 7 FTEs with a proposed budget of \$1,824,000.00.

With this confirmation of reSTORE DC's legal and budgetary status in the DMPED, this Office can now state that reSTORE DC may lawfully be transferred from the DMPED to the Department by Mayor's Order. More specifically, section 4 (1) of the Governmental Reorganization Procedures Act of 1981 (Reorganization Act), effective October 17, 1981, D.C. Law 4-42, D.C. Official Code § 1-315.03 (a) (1) (2006 Repl.), requires a reorganization when the whole or part of an agency (e.g., the reSTORE part of the agency DMPED), or the functions thereof, are transferred to the jurisdiction and control of another agency (e.g., the Department). However, the definition of "agency" in section 3 (1) of the Reorganization Act (D.C. Official Code § 1-315.02 (1)) (2006 Repl.), excludes the Executive Office of the Mayor from the requirements of the Reorganization Act and, under section 3 (3) of the Reorganization Act (D.C. Official Code § 1-315.02 (3)) (2006 Repl.), the DMPED comes within the definition of the phrase "Executive Office of the Mayor" under the Reorganization Act.¹ Thus, DMPED, as an agency in the Executive Office of the Mayor is excluded from the requirements of the Reorganization Act that would otherwise require the transfer of reSTORE from DMPED to the Department to be done either legislatively or through a reorganization plan.

The Order has been reviewed by the Office of Documents and Administrative Issuances (ODAI) for format and technical accuracy and has been edited by both ODAI and this Office for technical and legal accuracy. As revised, the Order is legally sufficient. I have attached a copy of the revised Order. I will also forward a copy of the revised Order to you by e-mail.

Should you have questions regarding this memorandum, please contact either Ms. Goff, at 724-5558, or me at 724-5524.

WCW/phg

Attachment

¹ Section 3 (3) of the Reorganization Act (D.C. Official Code § 1-315.02 (3)) (2006 Repl.), defines "Executive Office of the Mayor" to mean "those offices or agencies expressly established to provide managerial, budgetary, personnel, secretarial, planning, informational, and special assistance to the Mayor in carrying out the Mayor's administrative functions in the management of the District government."